THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.23464 of 2000

Dated : 07.08.2007

Between:

Boddu Sriramulu S/o late Narayana and others.

..... PETITIONERS

And:

Revenue Divisional Officer, Vizianagaram and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

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ORDER:

Petitioners state that their father, Boddu Narayana, was assigned an extent of Acs.3.61 cents of land in Sy.No.151/2 of S.Kota village and Mandal of Vizianagaram District. However, the husband of the third respondent, by name Simma Narayana, filed an application before the first respondent stating that out of the said extent assigned in favour of the petitioners' father, an extent of Ac.0.41 was under his occupation since long time, and thereby requested the first respondent to issue D-Form patta in his favour for the said extent. Accordingly, the first respondent, after alleged inspection, cancelled the assignment granted in favour of the petitioners' father in respect of an extent of Ac.0.41 cents of land in Sy.No.151/2 and assigned the said extent in favour of the

husband of the third respondent, by subdividing the same as Sy.No.151/4. Later, Simma Narayana filed O.S.No.90 of 1988 on the file of the Court of the District Munsif, S.Kota, for permanent injunction against the petitioners and others alleging that they were obstructing him from cultivating the said extent, but the same was dismissed on 19.10.1996. Again the said Simma Narayana filed a petition before the first respondent complaining that petitioners were obstructing him from cultivating the said extent of Ac.0.41 cents, and during the pendency of enquiry, he died. The first respondent, without considering the judgment passed by the competent civil court, passed the impugned order dated 21.07.2000, directing the second respondent to issue pattadar passbook and title deed book in favour of the legal heirs of Simma Narayana, the husband of the third respondent. Aggrieved thereby, this writ petition is filed.

Despite service of notices, respondents have not chosen to file any counter.

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue.

From a narration of the events it is clear that questioning the said cancellation of D-Form patta made in favour of the petitioners' father,Boddu Narayana, an appeal was preferred and by the time this writ petition was filed, the said appeal was pending. However, it appears the said cancellation was not suspended by the appellate Court. Further, against the orders passed by the Revenue Divisional Officer dated 21.07.2000, which is impugned in this writ petition, petitioners have a right of appeal and the petitioners have filed this writ petition without exhausting the said remedy.

In the above circumstances, this Court is of the view that petitioners can as well approach the appellate authority and file an appeal, so that the appellate authority can hear the same as well as the

appeal preferred by the petitioners questioning the cancellation of patta and pass a comprehensive order.

Accordingly the writ petition is disposed of, directing the petitioners to file an appeal against the impugned order dated 21.07.2000 before the appellate authority-Joint Collector, within a period of four weeks from the date of receipt of a copy of this order, and the Joint Collector shall accept the said appeal without looking into the aspect of limitation. There shall be no order as to costs.

sh 07.08.2007